

Staff Summary Report



Hearing Officer Hearing Date: December 4, 2007

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by **FOOD CITY NO. 41 (PL070482)** located at 1845 North Scottsdale Road for one (1) use permit.

DOCUMENT NAME: 20071204dssd03

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **VALLEY WEST SHOPPING CENTER LLC - FOOD CITY NO. 41 (PL070482)** (M. Brennan Ray/Burch & Cracchiolo, applicant; Bashas Inc., property owner) located at 1845 North Scottsdale Road in the CSS, Commercial Shopping and Services District for:

ZUP07175 Use permit to allow outdoor retailing (outdoor roasting/retail food productions).

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

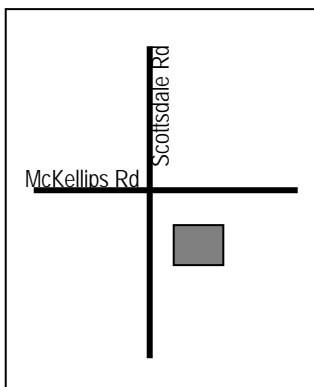
A handwritten signature in black ink, appearing to read 'SEA', located to the right of the 'REVIEWED BY' line.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions 1-7

ADDITIONAL INFO: Food City Grocery Stores is requesting a use permit to allow the outdoor roasting of chilies' and the grilling of chickens. The proposed display areas are delineated adjacent to the main entrance of the store. To date, staff has received no public input on this request. Staff recommends approval of the proposals as submitted, with conditions.



PAGES:

1. List of Attachments
2. Comments;
3. Reason for Approval; Conditions of Approval; History & Facts/Description
Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Intent
5. Site Plan
6. Enlarged Site plan
- 7-9. Applicants Photograph(s)
10. Staff Photograph(s)

COMMENTS:

Food City Grocery Stores is requesting a use permit to allow the outdoor roasting of chilies' and the grilling of chicken. The site is located at 1845 North Scottsdale Road in the CSS, Convenience Shopping and Service District. The outdoor roasting and grilling area will be located to the north of the main entrance, adjacent to the shopping cart coral. The Zoning and Development Code requires a six (6') foot clear, unobstructed path. The outdoor grilling and roasting area will consist of two (2) tables, temporary tent/awning, propane tank, charcoal grill and chili roaster. The chilies' and chickens will be cooked outside, then bagged and weighed, and moved inside the grocery store where shoppers can purchase the items. There will be no sales conducted on the outside of the building.

While conducting a site inspection of the Food City shopping center, the existing three foot (3) ADA accessible walkway along the front of the building has obstructions that prohibit a clear and unobstructed pathway. A condition of approval will be added to remove all obstructions (trash can's) from the three foot (3) ADA walkway.

The outdoor grilling operation will occur on a seasonal basis. Food City anticipates chili roasting will occur Friday's and Monday's from 2:00 PM to 7:00 PM, Saturday and Sunday from 10:00 AM to 4:00 PM. The chicken grilling will occur Friday through Monday from 11:30 AM to 7:00 PM. The setup and breakdown of all grilling equipment will occur one-half hour before and after cooking operations are conducted.

To date, there has been no public input.

Use Permit

The Zoning and Development Code requires a use permit for outdoor roasting/cooking within the CSS, Convenience Shopping and Service District. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This use, with conditions, should not create nuisances within the commercial zoned area.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values. The requested use permit will not be detrimental to the surrounding area.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses.
The proposed development would not contribute to neighborhood deterioration or downgrade property values. The requested use permit will not be detrimental to the surrounding area.

Conclusion

Staff recommends approval of the use permit, subject to the conditions of approval

**REASON(S) FOR
APPROVAL:**

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. The use appears to be compatible with the site and adjacent property.
3. There appears to be a demonstrated need for this use at the proposed location

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE
FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

**CONDITION(S)
OF APPROVAL:**

1. The outdoor roasting/cooking equipment shall not conflict with pedestrian or vehicular traffic. If any display/cooking equipment are moved into the sidewalk, the business may be cited and/or returned to the Hearing Officer for review, and potential revocation of the use permits. The Zoning and Development Code requires a six (6') foot clear, unobstructed path.
2. The use permit is valid for the plans as submitted to and approved by the Hearing Officer, any expansion of the outdoor display would require a new use permit.
3. The applicant shall remove all items that are currently obstructing the ADA accessible walkway along the front of the building.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit may be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. Any outdoor signage associated with the display shall be reviewed by the Development Services Department - Planning Division and are limited to three (3) square feet.
6. The outdoor grilling area shall require development plan review, this to include (temporary awnings/tents and fences)
7. No sound amplification shall be used for the outdoor display.

HISTORY & FACTS: None pertinent to this request

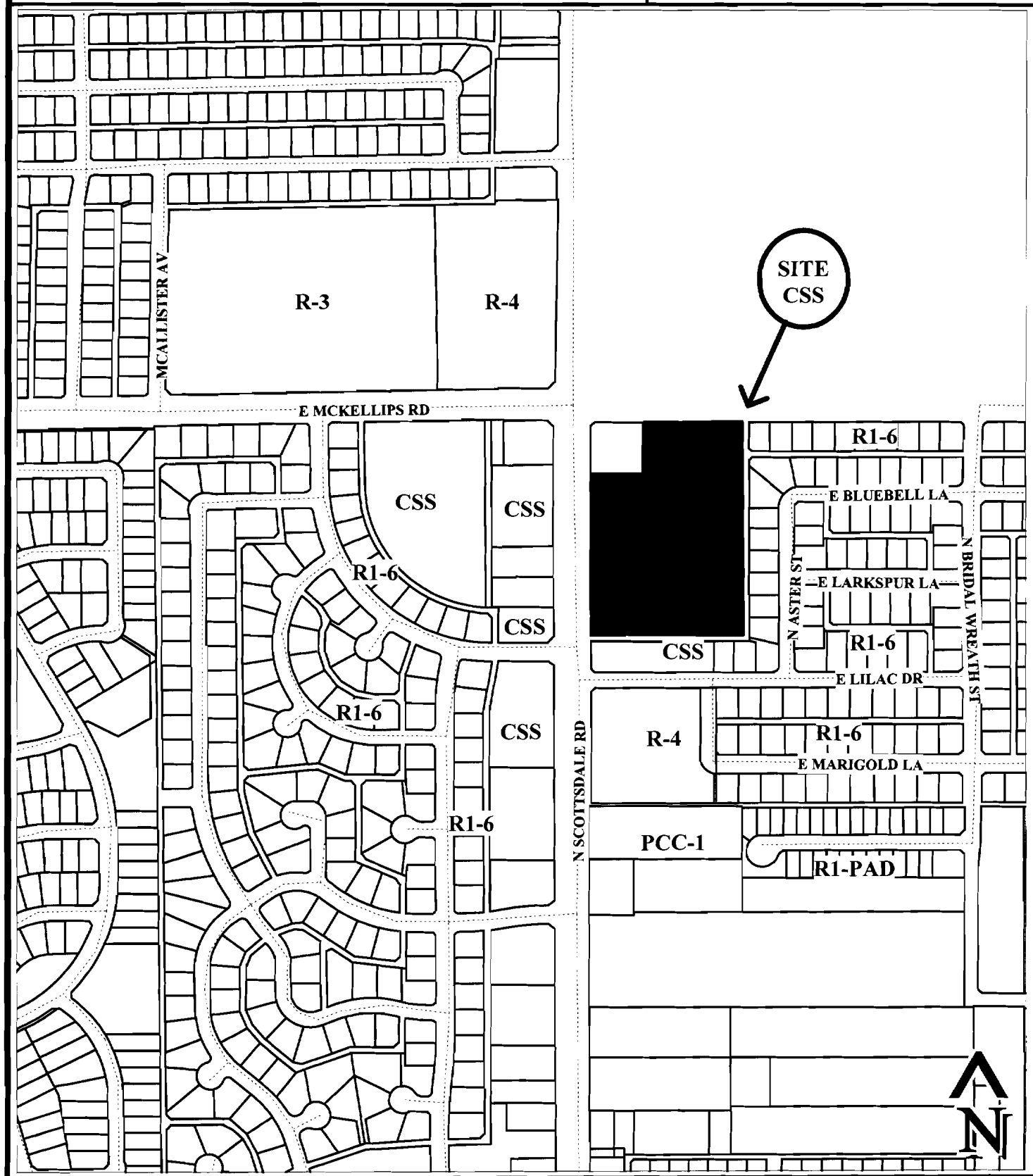
DESCRIPTION: Owner – Bashas Inc.
Applicant – M. Brennan Ray/Burch & Cracchiolo
Existing Zoning – CSS, Commercial Shopping and Services District
Site Area – 311,879 s.f. / 7.19 acres
Building Area – 77,153 s.f.
Outdoor Roasting/Cooking Area – 400 s.f.

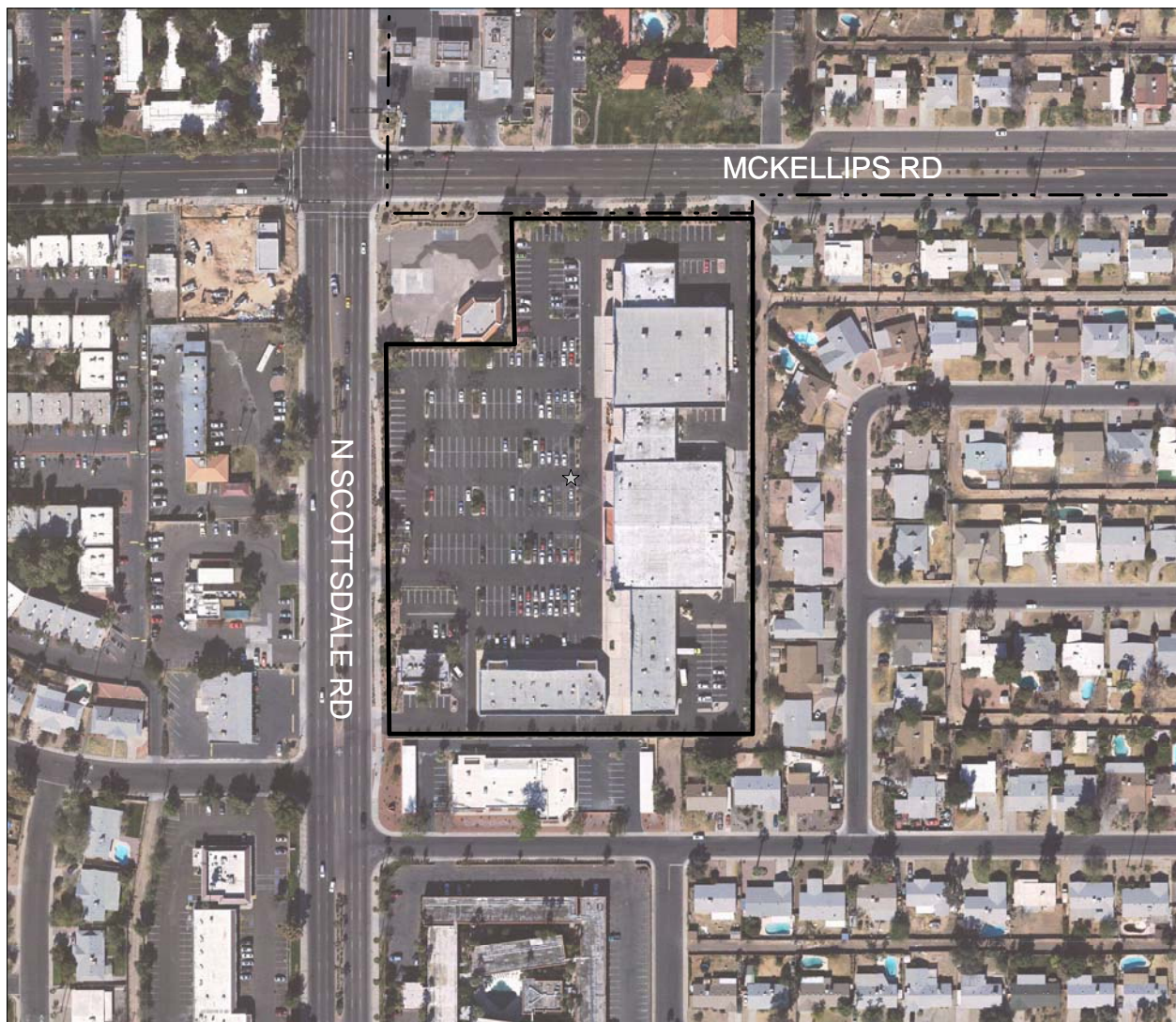
**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 3, Section 3-418: Outdoor Display
Part 6, Chapter 3, Section 6-308: Use Permit

VALLEY WEST SHOPPING CENTER FOOD CITY NO. 41

PL070482





VALLEY WEST SHOPPING CENTER LLC - FOOD CITY NO. 41 (PL070482)

BURCH & CRACCHIOLO, P.A.
ATTORNEYS AT LAW

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PHOENIX, ARIZONA 85014

(602) 274-7611
FAX (602) 234-2341
November 6, 2007

Steve Abrahamson
City of Tempe
Planning Division
31 East 5th Street
Tempe, Arizona 85281

RE: *Bashas'/Food City Store No. 41 Outdoor Grilling Operations in Tempe*

Dear Steve:

Bashas' Inc. operates a Food City store at 1845 N. Scottsdale Road ("Store No. 41" or the "Site"). Attached as Exhibit 1 is an aerial of Store No. 41. The Site is zoned C-2 and is located within an existing shopping center. Food City's throughout the Valley have a tradition of conducting outdoor grilling activities at their stores. Bashas' desires to conduct outdoor grilling activities at Store No. 41 and accordingly requests a Use Permit to conduct outdoor grilling at Store No. 41. Bashas' believes the outdoor operations are appropriate at this location, compatible with the surrounding uses, will be an aesthetically pleasing and enjoyable experience for customers, and safe for Tempe citizens.

The outdoor grilling activities will be conducted at the Site in the location identified in Site Plan attached as Exhibit 2. A detailed plan of the outdoor grilling area is attached as Exhibit 3. Also attached as Exhibit 4 are photographs of the proposed location. The outdoor grilling will consist primarily of grilling chickens and roasting chilies. The chickens and chilies will be grilled outside by typically two to three Food City employees with valid food safety permits. After the chicken and chilies have been grilled, they will be weighed and packaged outside. Once bagged, the chilies are taken inside the stores where customers can purchase them. The chickens will be purchased inside and then customers will go outside with the receipt and pick-up the chickens. No money will exchange hands outside the store to purchase the food.

The outdoor grilling operations will occur on a seasonal basis and weather permitting. It is anticipated that when conducted, the chili roasting will occur Friday and Monday between 2:00 p.m. and 7:00 p.m., and Saturday and Sunday from 10:00 a.m. to 4:00 p.m. The chicken grilling will normally occur Friday through Monday between 11:30 a.m. to 7:00 p.m. The setup and breakdown respectively will occur approximately one-half hour before and after the cooking operations are conducted.

The grill used to cook chickens is three feet deep by six feet wide by 40 inches high with an overall height of 90 inches at the top of the wagon wheel. Attached as Exhibit 5 is an example of the grill that will be used to cook the chickens. The chilies will be roasted in a chili roaster fueled by

BURCH & CRACCHIOLO, P.A.

Steve Abrahamson
Re: Use Permit-Outdoor Grilling
November 6, 2007

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a 100 lb. propane tank. The overall dimensions for the chili roaster are approximately 52 inches tall by 36 inches wide by 50 inches long. Attached as Exhibit 6 is a copy of an example of the type of chili roaster to be used in roasting the chilies.

On the days the operations will occur, Food City employees will set up the fencing in the locations identified on the Site Plan, bring out the equipment, and secure it. The fencing used in the outdoor grilling operations will be a minimum of four feet high. The fencing material is made of a heavy plastic, weather resistant-type material. Attached as Exhibit 7 is a copy of the proposed fencing. The fencing is substantial enough that it will not break or get knocked over easily. Additionally, there will be no chain link fence, cattle-pen metal cages, plain wood boards, etc. The fencing used will be both attractive and safe to Food City patrons and passers-by. The grilling and roasting equipment will be immobile during operation and properly barricaded from pedestrian traffic by the fencing. Upon securing the equipment, the coals for the grill will be started and the propane tanks will be hooked up to the chili roaster. When the equipment is not in use it will be stored inside the building in one of the back storage rooms.

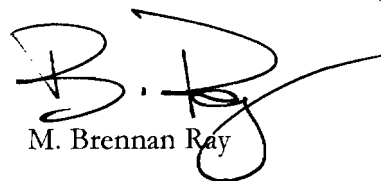
While the chicken grilling and chili roasting does emit some smoke and odor, the impact on neighboring properties in the area will be minimal. The smoke emitted from these operations is comparable to that of any backyard barbeque. An attendant Food City employee will be present to prevent the chilies/chickens from burning and thus emitting significant amounts of smoke. The amount of traffic (pedestrian and vehicular) generated by the proposed use in this location will have a minimal impact on the surrounding area considering the amount of traffic, noise, and other associated effects generated by the overall shopping center. The proposed use will not contribute in any measurable way to the deterioration of the area or contribute to the lowering of property values.

Bashas'/Food City's outdoor grilling operations are a comparatively small endeavor that they believe will be well received by the citizens of Tempe as it has been throughout the Valley. If you have any further questions regarding this matter, or would like any additional information, please do not hesitate to contact Ricki Horowitz at (602) 234-8728 or me at (602) 234-8794.

Otherwise, on behalf of Bashas' we request your approval of the Use Permit.

Very Truly Yours,

BURCH & CRACCHIOLO, P.A.

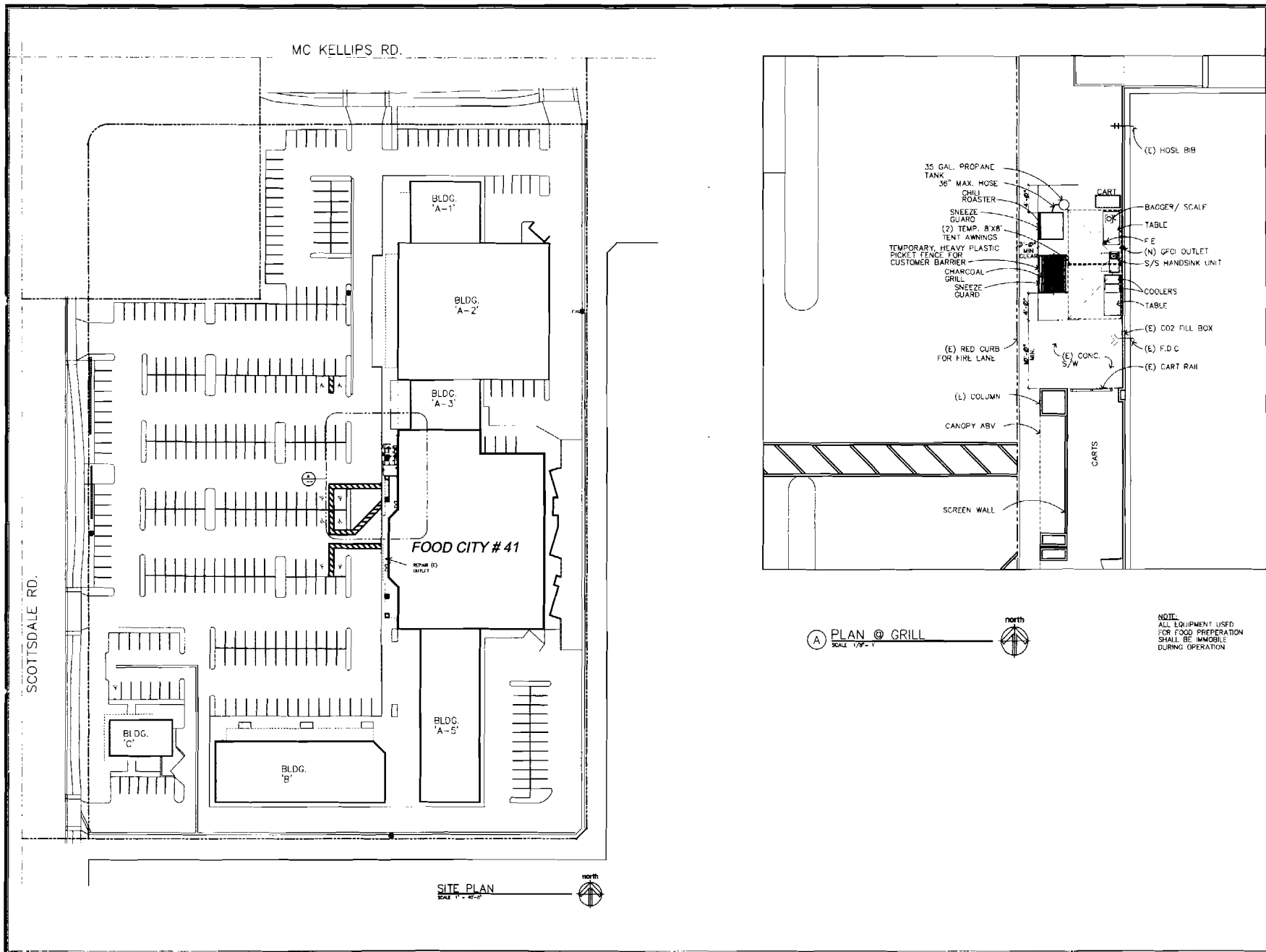


M. Brennan Ray

:mbr

Enclosures

cc: Edward N. Basha, III
Tom Swanson
Marian Owan



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architects

FOOD CITY
GRILL PLAN STORE # 41
SCOTTSDALE RD. & MC KELLIPS RD.
TEMPE, ARIZONA
BASHAS' MARKETS, INC.
22402 SOUTH BASHA ROAD, CHANDLER, ARIZONA

REVISIONS:

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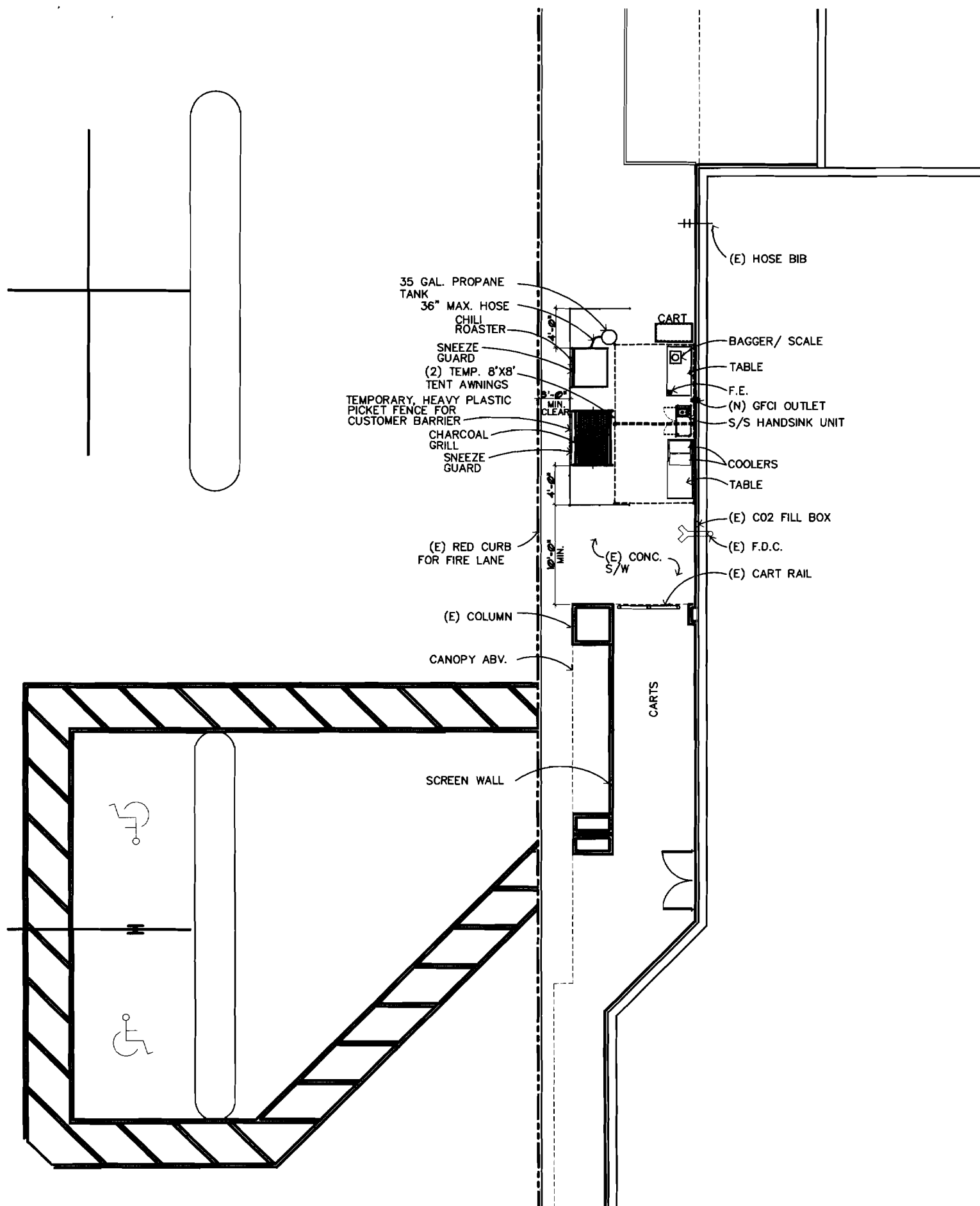
JOB NUMBER: 07012

DATE: 5-31-07

SHEET NUMBER:

A-1

GRILL PLAN



A PLAN @ GRILL

SCALE 1/8" = 1'

north

ATTACHMENT 6

NOTE:
ALL EQUIPMENT USED
FOR FOOD PREPARATION
SHALL BE IMMOBILE
DURING OPERATION







ATTACHMENT 9



FOOD CITY, NO.41

1845 N SCOTTSDALE RD

PL070482

FRONT OF BUSINESS